

SENATE BILL NO. 384

INTRODUCED BY GEBHARDT

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE SECRETARY OF STATE TO ADOPT RULES FOR THE EFFECTIVE ADMINISTRATION OF THE SECRETARY OF STATE'S DUTIES RELATING TO THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AND AMENDING SECTIONS 2-4-306 AND 2-15-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-4-306, MCA, is amended to read:

"2-4-306. Filing, format, and adoption and effective dates -- dissemination of emergency rules.

(1) Each agency shall file with the secretary of state a copy of each rule adopted by it or a reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised notice is filed with the secretary of state.

(2) ~~The Pursuant to 2-15-401, the~~ secretary of state may prescribe ~~a~~ rules to effectively administer this chapter, including rules regarding the format, style, and arrangement for notices and rules that are filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance with this chapter. The secretary of state shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, that must be open to public inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing copies.

(3) ~~In the event that~~ If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll must be published with the rule.

(4) Each rule is effective after publication in the register, as provided in 2-4-312, except that:

(a) if a later date is required by statute or specified in the rule, the later date is the effective date;

(b) subject to applicable constitutional or statutory provisions:

(i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date following publication in the register; and

(ii) an emergency rule is effective at a stated date following publication in the register or immediately upon filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of reasons for the finding must be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and extraordinary measures to make emergency rules known to each person who may be affected by them.

(c) if, following written administrative rule review committee notification to an agency under 2-4-305(9), the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the rule is adopted, the rule or portion of the rule objected to is not effective until the day after final adjournment of the regular session of the legislature that begins after the notice proposing the rule was published by the secretary of state, unless, following the committee's objection under 2-4-406(1):

(i) the committee withdraws its objection under 2-4-406 before the rule is adopted; or

(ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the committee members, as communicated in writing to the committee presiding officer and staff, make it comply with the committee's objection and concerns."

Section 2. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state -- authority. (1) In addition to the duties prescribed by the constitution, ~~it is the duty of the secretary of state to~~ shall:

(a) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform other duties as may be devolved upon the secretary of state by resolution of the two houses or either of them;

(b) keep a register of and attest the official acts of the governor, including all appointments made by the governor, with date of commission and names of appointees and predecessors;

(c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(d) record in proper books all articles of incorporation filed in the secretary of state's office;

(e) take and file receipts for all books distributed by the secretary of state and direct the county clerk

1 of each county to ~~do the same~~ take and file receipts for all books distributed by the county clerk;

2 (f) certify to the governor the names of those persons who have received at any election the highest
3 number of votes for any office, the incumbent of which is commissioned by the governor;

4 (g) furnish, on demand, to any person paying the fees, a certified copy of all or any part of any law,
5 record, or other instrument filed, deposited, or recorded in the secretary of state's office;

6 (h) keep a fee book in which must be entered all fees, commissions, and compensation earned,
7 collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case,
8 which must be verified annually by the secretary of state's affidavit entered in the fee book;

9 (i) file in the secretary of state's office descriptions of seals in use by the different state officers;

10 (j) discharge the duties of a member of the board of examiners and of the board of land commissioners
11 and all other duties required by law;

12 (k) register marks as provided in Title 30, chapter 13, part 3;

13 (l) report annually to the legislative services division all watercourse name changes received pursuant
14 to 85-2-134 for publication in the Laws of Montana;

15 (m) keep a register of all applications for pardon or for commutation of any sentence, with a list of the
16 official signatures and recommendations in favor of each application.

17 (2) The secretary of state may:

18 (a) develop and implement a statewide electronic filing system as described in 2-15-404;

19 (b) adopt rules for the effective administration of the secretary of state's duties relating to the Montana
20 Administrative Procedure Act established in Title 2, chapter 4."

21 - END -